

4-5-10
Bob Jennings from
Shirley Eaton

PALM BEACH COUNTY LIBRARY SYSTEM

APR 21 2010

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ENACTING A ONE YEAR MORATORIUM UPON THE ACCEPTANCE OF ZONING APPLICATIONS AND ALL APPLICABLE REQUESTS FOR ZONING APPROVAL FOR PAIN MANAGEMENT CLINICS, BY AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS FOLLOWS:
ARTICLE 1 – GENERAL PROVISIONS; CHAPTER I, DEFINITIONS AND ACRONYMS;
ARTICLE 3 – OVERLAYS AND ZONING DISTRICTS; CHAPTER B, OVERLAYS; CHAPTER E, PLANNED DEVELOPMENT DISTRICTS (PDDS); CHAPTER F, TRADITIONAL DEVELOPMENT DISTRICTS (TDDS); **ARTICLE 4 – USE REGULATIONS;** CHAPTER A, USE CLASSIFICATION; CHAPTER B, SUPPLEMENTARY USE STANDARDS; **ARTICLE 6 – PARKING;** CHAPTER A, PARKING; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND AN EFFECTIVE DATE.

WHEREAS, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

WHEREAS, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

WHEREAS, the BCC desires to further amend the ULDC, based upon public participation and advice from the Palm Beach County Land Development Regulation Advisory Board; and

WHEREAS, the BCC has determined that the proposed amendments further a legitimate public purpose; and

WHEREAS, the Land Development Regulation Commission has found these amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

WHEREAS, the BCC hereby elects to conduct its public hearings on this Ordinance at 9:30 a.m.; and

WHEREAS, the BCC has conducted public hearings to consider these amendments to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida Statutes; and

WHEREAS, the BCC has considered the Broward County Grand Jury Interim Report on the Proliferation of Pain Clinics in South Florida dated November 19, 2009; and

WHEREAS, the grand jury report found that from August 2008 to November 2009 a new pain clinic opened in Broward and Palm Beach Counties on average of every 3 days; and

WHEREAS, the grand jury heard testimony from law enforcement officials that criminal activity increases in areas where pain management clinics are located; and

1 **WHEREAS**, the BCC has been made aware of numerous news reports describing a
2 "pipeline" of trafficking drugs from South Florida pain management clinics to users in other
3 states, such as Kentucky, West Virginia, and Ohio; and

4 **WHEREAS**, the threat of increased crime associated with such clinics is very
5 significant and could undermine the economic health of the County's development and
6 redevelopment efforts; and

7 **WHEREAS**, in Chapter 2009-198, Laws of Florida, the Florida Legislature
8 recognized that pharmaceutical drug diversion hurts this state significantly in terms of lost
9 lives, increased crime, human misery from addiction, ballooning health care costs and
10 Medicaid fraud; and

11 **WHEREAS**, on January 21, 2010 the Palm Beach County Multi-jurisdictional Issues
12 Forum approved a request made by the BCC on December 8, 2009 that the regulation of
13 pain management clinics be addressed by the Forum as an issue of multi-jurisdictional
14 significance; and

15 **WHEREAS**, adoption of the moratorium will provide Palm Beach County an
16 opportunity to develop regulations that address the secondary effects of pain management
17 clinics and their impacts on the community.

18
19 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
20 **OF PALM BEACH COUNTY, FLORIDA, as follows:**

21
22 **Section 1. Adoption**

23 The amendments set forth in Exhibit A, attached hereto and made a part hereof, are
24 hereby adopted.

25
26 **Section 2. Interpretation of Captions**

27 All headings of articles, sections, paragraphs, and sub-paragraphs used in this
28 Ordinance are intended for the convenience of usage only and have no effect on
29 interpretation.

30
31 **Section 3. Providing for Repeal of Laws in Conflict**

32 All local laws and ordinances in conflict with any provisions of this Ordinance are
33 hereby repealed to the extent of such conflict.

34
35 **Section 4. Severability**

1 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any
2 other item contained in this Ordinance is for any reason held by the Court to be
3 unconstitutional, inoperative, void, or otherwise invalid, such holding shall not affect the
4 remainder of this Ordinance.

5
6 **Section 5. Providing for a Savings Clause**

7 All development orders, permits, enforcement orders, ongoing enforcement actions,
8 and all other actions of the Board of County Commissioners, the Zoning Commission, the
9 Development Review Officer, Enforcement Boards, all other County decision-making and
10 advisory boards, Special Masters, Hearing Officers, and all other County officials, issued
11 pursuant to the regulations and procedures established prior to the effective date of this
12 Ordinance shall remain in full force and effect.

13
14 **Section 6. Inclusion in the Unified Land Development Code**

15 The provisions of this Ordinance shall be codified in the Unified Land Development
16 Code and may be reorganized, renumbered or re-lettered to effectuate the codification of
17 this Ordinance.

18
19 **Section 7. Providing for an Effective Date**

20 The provisions of this Ordinance shall become effective upon filing with the
21 Department of State.

22
23 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
24 County, Florida, on this the 31st day of March, 2010.

SHARON R. BOCK, CLERK & PALM BEACH COUNTY, FLORIDA, BY
COMPTROLLER ITS BOARD OF COUNTY
COMMISSIONERS

By: 
Deputy Clerk
FLORIDA

By: 
Burt Aaronson, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

25
26
27
28 EFFECTIVE DATE: Filed with the Department of State on the 2nd day of
29 April, 2010.

EXHIBIT A

PAIN MANAGEMENT CLINICS
SUMMARY OF AMENDMENTS

Part 1. ULDC, Articles 1.1.2.M.32, Medical or Dental Clinic and 1.1.2.P.1, Pain Management Clinic (pages 69 & 74 of 110), is hereby amended as follows:

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

M. Terms defined herein or referenced in this Article shall have the following meanings:

32. **Medical Office or Dental Clinic Office** - an establishment where patients, who are not lodged overnight, are admitted for examination or treatment by persons practicing any form of healing or health-building services whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A pain management clinic shall not be considered a medical or dental office.

P. Terms defined herein or referenced in this Article shall have the following meanings:

1. **Pain Management Clinic** – all privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists: 1) beyond the usual course of the disease or the injury that is the cause of the pain; or 2) more than 90 days after surgery.

Part 2. ULDC, Table 3.B.2.A. – Airport Use Regulations (page 15 of 154), is hereby amended as follows:

Table 3.B.2.A - Airport Use Regulations

Use Type	Airport Related Uses	Non-Airport Related Uses	Corresponding Zoning District PDRs ⁽¹⁾	Note ⁽²⁾	Use Applicable to Specific Airport
Commercial Uses					
...					
Pain Management Clinic					91.1
...					
[Ord. 2006-036] [Ord. 2008-003]					

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Notes:

Underlined language indicates proposed new language.
Language ~~crossed out~~ indicates language proposed to be deleted.
.... (ellipses) indicates language not amended which has been omitted to save space.
Relocated language is shown as *italicized* with reference in parenthesis.

EXHIBIT A

PAIN MANAGEMENT CLINICS
SUMMARY OF AMENDMENTS

Part 3. ULDC, Table 3.E.1.B - PDD Use Matrix (page 75 of 154), is hereby amended as follows:

Table 3.E.1.B - PDD Use Matrix cont'd

Use Type	PUD					MUPD							MXPDP		PIPD			M	R	N					
	Pods					FLU							FLU		Use Zone										
	R	C	R	C	A	C	C	C	C	C	I	I	C	C	I	C	I								
	E	O	E	I	G	L	H	L	H	R	N	N	H	H	N	O	N								
	S	M	C	V	R				O	O		D	S		O	D	M	D		P	P		O	T	E
					/											/		/		D	D				
					P											L		G							
Commercial Uses																									
...																									
Pain Management Clinic																									91 1
...																									
[Ord. 2005-002] [Ord. 2006-004] [Ord. 2007-001] [Ord. 2007-013] [Ord. 2009-040]																									
Notes:																									
P	Permitted by right																								
D	Permitted subject to approval by the DRO																								
S	Permitted in the district only if approved by Special Permit																								
R	Permitted in the district only if approved by the Board of County Commissioners (BCC) as a requested use.																								

Part 4. ULDC, Table 3.F.1.F – Traditional Development Permitted Use Schedule (page 118 of 154), is hereby amended as follows:

Table 3.F.1.F – Traditional Development Permitted Use Schedule (Continued)

District	TND						TMD				NOTES
Tier	Urban/Suburban (U/S)			Exurban/Rural			U/S	Ex/ Rural	AGR		
Land Use Zone	Res	Neighborhood Center (NC)	Open Space/ Rec	Res	N/C	Open Space/ Rec			Dev	Preserve	
Commercial Uses											
...											
Pain Management Clinic											91 1
...											
Notes:											
P	Permitted by right.										
D	Permitted subject to approval by the DRO.										
S	Permitted in the district only if approved by Special Permit.										
R	Requested Use.										

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PAIN MANAGEMENT CLINICS
SUMMARY OF AMENDMENTS

Part 5. ULDC, Table 4.A.3.A - Use Matrix (page 14 of 161), is hereby amended as follows:

Table 4.A.3.A - Use Matrix Continued

Use Type	Zoning District/Overlay																	N O T E			
	Agriculture/ Conservation			Residential					Commercial					Industry/ Public							
	P	A	A	AR		R	R	R	R	C	C	C	C	C	C	I	I		P	I	
	C	G	P	R	U	E	T	S	M	N	L	C	H	G	R	E	L		G	O	P
		R		S	A						O			O		E					
Commercial Uses																					
...																					
Pain Management Clinic																					91.1
...																					
Key:																					
P Permitted by right																					
D Permitted subject to approval by the DRO																					
S Permitted in the district only if approved by Special Permit																					
B Permitted in the district only if approved by the Zoning Commission (ZC)																					
A Permitted in the district only if approved by the Board of County Commissioners (BCC)																					

Part 6. ULDC, Art. 4.B.1.A, Definitions and Supplementary Standards for Specific Uses, [Related to Medical or Dental Office and Pain Management Clinics] (pages 63 & 68 of 161), is hereby amended as follows:

CHAPTER B SUPPLEMENTARY USE STANDARDS

Section 1 Uses

A. Definitions and Supplementary Standards for Specific Uses

83. Medical or Dental Office

An establishment where patients, who are not lodged overnight, are admitted for examination or treatment by persons practicing any form of healing or health-building services whether such persons be medical doctors, chiropractors, osteopaths, chiropractists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A pain management clinic shall not be considered a medical or dental office.[Ord. 2005 – 002]

91.1 Pain Management Clinic

All privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists: 1) beyond the usual course of the disease or the injury that is the cause of the pain; or 2) more than 90 days after surgery.

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EXHIBIT A

PAIN MANAGEMENT CLINICS
SUMMARY OF AMENDMENTS

- a. Moratorium
1. The Board of County Commissioners of Palm Beach County does hereby impose a moratorium beginning on the effective date of this ordinance, upon the acceptance of zoning applications and all applicable requests for zoning approval for pain management clinics.
2. This Ordinance shall expire upon the earlier of the following: one year from the effective date of this ordinance or upon the effective date of Unified Land Development Code amendments dealing with pain management clinics to be considered by the Board of County Commissioners during the moratorium.

Part 7. **ULDC, Table.6.A.1.B, Minimum Off-Street Parking and Loading Requirements [Related to Medical or Dental Office and Pain Management Clinics] (page of 161), is hereby amended as follows:**

Table 6.A.1.B - Minimum Off-Street Parking and Loading Requirements – Cont'd

Use Type: Commercial	Parking ¹	Loading ²
...		
Pain Management Clinic	1 space per 200 sq. ft.	C
...		
[Ord. 2005-002] [Ord. 2005-041] [Ord. 2006-004] [Ord. 2008-037]		
Loading Key:		
Standard "A" - One space for the first 5,000 square feet of GFA, plus one for each additional 30,000 square feet of GFA.		
Standard "B" - One space for the first 10,000 square feet of GFA, plus one for each additional 15,000 square feet of GFA.		
Standard "C" - One space for the first 10,000 square feet of GFA, plus one for each additional 100,000 square feet of GFA.		
Standard "D" - One space for each 50 beds for all facilities containing 20 or more beds.		
Standard "E" - One space for the first 10,000 square feet of GFA, plus one for each additional 20,000 square feet of GFA. The space shall be a minimum of 12 feet in width and 18.5 feet in length for uses that require limited loading.		

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